

FIRST REGULAR SESSION

SENATE BILL NO. 333

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR STOUFFER.

Read 1st time January 22, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

1511S.011

AN ACT

To repeal sections 192.745, 199.001, 199.003, 199.009, and 304.028, RSMo, and to enact in lieu thereof five new sections relating to the brain injury advisory council.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 192.745, 199.001, 199.003, 199.009, and 304.028, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 192.745, 199.001, 199.003, 199.009, and 304.028, to read as follows:

192.745. 1. The "Missouri [Head] **Brain Injury Advisory Council**" [is hereby established] as created by executive order of the governor on March 5, 1985 is hereby transferred to the department of health and senior services by executive order 05-09 issued on February 2, 2005. The council shall consist of twenty-five members. The members of the council that are serving on [August 13, 1986] **February 2, 2005**, shall continue [serving on the following basis: the two members of the council who are members of the house of representatives and appointed by the speaker of the house of representatives shall serve for the remainder of their terms; the two members of the council who are members of the senate appointed by the president pro tempore of the senate shall serve for the remainder of their terms; and the remaining twenty-one members shall determine by lot which seven are to have a one-year term, which seven are to have a two-year term, and which seven are to have a three-year term] to fulfill their current terms. Through attrition, the council will decrease from the present twenty-five members to eighteen members. Thereafter, the successors to each of these [twenty-one] members shall be appointed by the director of the department of health and

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 **senior services** to serve a three-year term and [until the member's successor
19 is appointed by the governor with the advice and consent of the senate. In
20 addition, two members who are members of the house of representatives shall be
21 appointed by the speaker of the house and two members who are members of the
22 senate shall be appointed by the president pro tempore of the senate. The
23 members appointed by the governor shall represent] **shall be appointed on the**
24 **following basis: four** people with [head] **brain** injuries[,] **or** relatives of
25 persons with [head] **brain** injuries, [proprietary schools as defined in section
26 173.600, RSMo,] **and fourteen others from** professional groups, health
27 institutions, [or] **community groups**, private industry and state agencies which
28 administer programs regarding mental health, education, public health, public
29 safety, insurance, and Medicaid. The appointment of individuals representing
30 state agencies shall be conditioned on their continued employment with their
31 respective agencies.

32 2. The Missouri [head] **brain** injury advisory council is assigned to the
33 [division of general services in the office of administration] **department of**
34 **health and senior services**. The [office of administration] **department** shall
35 submit estimates of requirements for appropriations on behalf of the council for
36 the necessary staff and expenses to carry out the duties and responsibilities
37 assigned by the council. [Such staff shall consist of a director and other support
38 staff.]

39 3. Meetings **of the full council** shall be held at least [every ninety days]
40 **twice a year** or at the call of the council chairperson, who shall be elected by the
41 council. **Subcommittees may meet on an as needed basis**.

42 4. [Each member shall, subject to appropriations, be reimbursed for
43 reasonable and necessary expenses actually incurred in the performance of the
44 member's official duties.] **Members of the council shall not receive any**
45 **compensation for their services, but they shall, subject to**
46 **appropriations, be reimbursed for actual and necessary expenses**
47 **incurred in the performance of their duties from funds appropriated**
48 **for this purpose**.

49 5. The council shall adopt written procedures to govern its
50 activities. [Staff and consultants shall be provided for the council from
51 appropriations requested by the commissioner of the office of administration for
52 such purpose.]

53 6. The council, **under the direction of the department**, shall make

54 recommendations to the [governor] **director of the department of health and**
55 **senior services** for developing and administering a state plan to provide
56 services for [head] **brain** injured persons.

57 7. No member of the council may participate in or seek to influence a
58 decision or vote of the council if the member would be directly involved with the
59 matter or if the member would derive income from it. A violation of the
60 prohibition contained herein shall be grounds for a person to be removed as a
61 member of the council by the [governor] **director of the department of health**
62 **and senior services**.

63 8. The council shall be advisory and shall:

64 (1) Promote meetings and programs for the discussion of reducing the
65 debilitating effects of [head] **brain** injuries and disseminate information in
66 cooperation with any other department, agency or entity on the prevention,
67 evaluation, care, treatment and rehabilitation of persons affected by [head] **brain**
68 injuries;

69 (2) Study and review current prevention, evaluation, care, treatment and
70 rehabilitation technologies and recommend appropriate preparation, training,
71 retraining and distribution of manpower and resources in the provision of services
72 to [head-injured] **brain-injured** persons through private and public residential
73 facilities, day programs and other specialized services;

74 (3) Recommend [what] specific methods, means and procedures [should
75 be adopted] to improve and upgrade the state's service delivery system for
76 [head-injured] **brain-injured** citizens of this state;

77 (4) Participate in developing and disseminating criteria and standards
78 which may be required for future funding or licensing of facilities, day programs
79 and other specialized services for [head-injured] **brain-injured** persons in this
80 state;

81 (5) Report annually to the [commissioner of administration] **director of**
82 **the department of health and senior services**, the governor, and the general
83 assembly on its activities, and on the results of its studies and the
84 recommendations of the council.

85 9. The [office of administration] **department of health and senior**
86 **services** may accept on behalf of the council federal funds, gifts and donations
87 from individuals, private organizations and foundations, and any other funds that
88 may become available.

199.001. As used in sections 199.001 to 199.055, the following terms

2 mean:

3 (1) "[Division] **Department**", the [division of injury prevention, head
4 injury rehabilitation and local health services of the] department of health and
5 senior [services] **services' adult head injury program**;

6 (2) "[Head] **Brain injury**" [includes head injury, traumatic head injury,
7 and spinal cord injury as defined in section 192.735, RSMo] or "**traumatic**
8 **brain injury**", a sudden insult or damage to the brain or its coverings,
9 not of a degenerative nature. Such insult or damage may produce an
10 altered state of consciousness and may result in a decrease of one or
11 more of the following: mental, cognitive, behavioral, or physical
12 functioning resulting in partial or total disability. Cerebral vascular
13 accidents, aneurisms, and congenital deficits are excluded from this
14 definition;

15 (3) "Injury or trauma", any unintentional or intentional damage to the
16 body resulting from acute exposure to thermal, mechanical, electrical, or chemical
17 energy or from the absence of such essentials as heat or oxygen;

18 (4) "Rehabilitation", a comprehensive series of interventions for physical,
19 medical, cognitive and psychological disabilities designed to restore a person to
20 his maximum functional potential.

199.003. 1. [The "Division of Injury Prevention, Head Injury
2 Rehabilitation and Local Health Services" is hereby created and shall be a
3 division of the department of health and senior services.] The [division]
4 **department** shall have the responsibility, **subject to appropriations**, of
5 ensuring that injury prevention and [head] **brain injury** rehabilitation
6 evaluation, [case management] **service coordination**, treatment, rehabilitation,
7 and community support services are accessible, wherever possible. [The division
8 shall have and exercise supervision of division rehabilitation facilities, residential
9 programs and specialized services operated by the division and oversight of
10 facilities, programs and services funded by the division. The division may also
11 plan for prevention, treatment, rehabilitation and care, including hospice, for
12 persons with other diseases as determined by the general assembly by
13 appropriations. The division shall also have responsibilities for the support,
14 development, and coordination of local health services.]

15 2. The powers, functions and duties of the [division] **department** shall
16 include the following:

17 (1) [Provision of funds for] **Planning and implementing**, in cooperation

18 with the Missouri [head] **brain** injury advisory council [and implementation of],
19 accessible programs to [rehabilitate and care for] **promote rehabilitation and**
20 **community reintegration of** persons with [head injuries, injury prevention
21 and research] **brain injuries**;

22 (2) Provision of technical assistance and training to community-based
23 programs [and assistance and cooperation to programs of political subdivisions
24 designed to assist in planning and implementing quality services] **assisting**
25 **persons with brain injuries**;

26 (3) Assurance of [program] quality [in compliance with such appropriate
27 standards for residential facilities, day programs, and specialized programs as
28 may be established by the division] **for brain injury services funded by the**
29 **department**;

30 (4) Sponsorship and encouragement of research into the causes, effects,
31 prevention, treatment and rehabilitation of injuries and appropriateness and cost
32 and benefit effectiveness of [head] **brain** injury rehabilitation, residential
33 programs and specialized services;

34 (5) Provision of public information relating to injury prevention and
35 [head] **brain** injury treatment and rehabilitation;

36 (6) Cooperation with nonstate governmental agencies and [the] private
37 sector [in establishing, conducting, integrating and coordinating] programs and
38 projects relating to injury prevention and [head] **brain** injury treatment and
39 rehabilitation;

40 (7) [Review and oversight of those portions of the department's annual
41 budget which are directed for injury prevention and head injury services;

42 (8) Encouragement of the utilization, support, assistance and dedication
43 of volunteers to assist persons affected by head injuries to be accepted and
44 integrated into normal community activities;

45 (9) Support, development, and coordination of local health services, which
46 shall include but shall not be limited to:

47 (a) Professional resources and staff development;

48 (b) Services assessment and coordination;

49 (c) Standards development, implementation and quality assurance;

50 (d) Provision of basic public health services in areas not served by local
51 public health agencies;

52 (e) Fiscal resources and management;

53 (f) Technical assistance; and

54 (g) Assistance with public health problems, emergencies and conditions]
55 **Receiving federal grants and aids for injury prevention and for persons**
56 **with brain injuries and brain injury rehabilitation under the terms of**
57 **the grants and aids and administering or paying them out. The**
58 **director shall approve such applications for federal assistance**
59 **administered through the department as may be considered advisable**
60 **in consultation with the Missouri brain injury advisory council;**

61 (8) **Promulgating rules under the provisions of this section, as**
62 **necessary to prescribe policies or standards which affect charging and**
63 **funding of adult brain injury rehabilitation services. The rules**
64 **applicable to each program or service operated or funded by the**
65 **department shall be available for public inspection and review at such**
66 **program or service. The rules and policies shall be compatible with**
67 **and appropriate to the program mission, population served, size, type**
68 **of service, and other reasonable classifications;**

69 (9) **Promulgating reasonable rules relative to the implementation**
70 **of participant rights described in sections 199.001 to 199.051;**

71 (10) **Promulgating rules setting forth a reasonable standard**
72 **means test which shall be applied to all programs and services funded**
73 **by the department in determining eligibility for such services.**

74 3. **Any rule or portion of a rule, as that term is defined in section**
75 **536.010, RSMo, that is created under the authority delegated in this**
76 **section shall become effective only if it complies with and is subject to**
77 **all of the provisions of chapter 536, RSMo, and, if applicable, section**
78 **536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
79 **and if any of the powers vested with the general assembly pursuant to**
80 **chapter 536, RSMo, to review, to delay the effective date, or to**
81 **disapprove and annul a rule are subsequently held unconstitutional,**
82 **then the grant of rulemaking authority and any rule proposed or**
83 **adopted after August 28, 2007, shall be invalid and void.**

199.009. 1. The [division] **department** may provide injury prevention,
2 and [head] **brain** injury evaluation, care, treatment, rehabilitation and such
3 related services directly or through contracts from private and public vendors in
4 this state, the quality of the services being equal, appropriate and consistent with
5 professional advice in the least restrictive environment and as close to an
6 individual's home community as possible, with funds appropriated for this
7 purpose.

8 2. If it is determined through a comprehensive evaluation that a person
9 [is suffering from a head] **has a traumatic brain** injury so as to require the
10 coordination of provision of services, including other state governmental agencies,
11 nongovernmental and the private sector, and if such person, such person's parent,
12 if the person is a minor, or legal guardian, so requests, the [division]
13 **department** shall, within the limits of available resources and subject to
14 relevant federal and state laws, secure a comprehensive program of any necessary
15 services for such person. Such services [may include, but need not be limited to,
16 the following:

17 (1) Assessment and evaluation;
18 (2) Case management;
19 (3) Counseling;
20 (4) Respite care;
21 (5) Recreation;
22 (6) Rehabilitation;
23 (7) Cognitive retraining;
24 (8) Prevocational rehabilitation;
25 (9) Residential care;
26 (10) Homemaker services;
27 (11) Day activity programs;
28 (12) Supported living;
29 (13) Referral to appropriate services;
30 (14) Transportation;
31 (15) Supported work], **if provided by the department, shall be**
32 **directed toward preparation for education or vocational achievement,**
33 **independent living, and community participation. Long-term needs**
34 **shall be identified and efforts made to link participants with**
35 **appropriate resources.**

36 3. In securing the comprehensive program of services, the [division]
37 **department** shall involve the [patient] **participant**, his **or her** family or his
38 **or her** legal guardian in decisions affecting his **or her** care, rehabilitation,
39 services or referral. The quality of the services being equal, appropriate and
40 consistent with professional advice, services shall be offered in the least
41 restrictive environment and as close to an individual's home community as
42 possible.

43 4. **In accordance with state and federal law, no service or**

44 **program operated or funded by the department shall deny admission**
45 **or other services to any person because of the person's race, sex, creed,**
46 **marital status, national origin, handicap, or age.**

304.028. 1. There is hereby created in the state treasury for use by the
2 **[Missouri Head Injury Advisory Council] department of health and senior**
3 **services** a fund to be known as the "**[Head] Brain Injury Fund**". All judgments
4 collected pursuant to this section, federal grants, private donations and any other
5 moneys designated for the **[head] brain** injury fund shall be deposited in the
6 fund. Moneys deposited in the fund shall, upon appropriation by the general
7 assembly to the **[office of administration] department of health and senior**
8 **services**, be received and expended by the **[council] department** for the purpose
9 of transition and integration of medical, social and educational services or
10 activities for purposes of outreach and short-term supports to enable individuals
11 with traumatic **[head] brain** injury and their families to live in the community[,
12 including counseling and mentoring the families]. Notwithstanding the
13 provisions of section 33.080, RSMo, to the contrary, any unexpended balance in
14 the **[head] brain** injury fund at the end of any biennium shall not be transferred
15 to the general revenue fund.

16 2. In all criminal cases including violations of any county ordinance or any
17 violation of criminal or traffic laws of this state, including an infraction, there
18 shall be assessed as costs a surcharge in the amount of two dollars. No such
19 surcharge shall be collected in any proceeding involving a violation of an
20 ordinance or state law when the proceeding or defendant has been dismissed by
21 the court or when costs are to be paid by the state, county or municipality.

22 3. Such surcharge shall be collected and distributed by the clerk of the
23 court as provided in sections 488.010 to 488.020, RSMo. The surcharge collected
24 pursuant to this section shall be paid to the state treasury to the credit of the
25 **[head] brain** injury fund established in this section.

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